

REMARKS

Receipt of the Office Action mailed January 19, 2011 is hereby acknowledged. Reconsideration and withdrawal of the rejections in view of the foregoing amendments and the following remarks is respectfully requested. The Examiner is thanked for the indication that the prior art rejections have been withdrawn

Amendments

Claim 1 has been amended to recite that the concentrate consists of “an ω -3 fatty acid and polysorbates.” This amendment is supported in the substitute specification at page 3, lines 11-17:

“To that end, the intention of the invention is to provide a concentrate, which consists of an active agent from the group, comprising an algae oil, an essential oil, a terpene, phosphatidylserine, a ω -3-fatty acid, lanolin, conjugated linoleic acid, triglyceride, a citral and tea tree oil and a surplus of polysorbate.”

(emphasis added).

Claim 35 has been rewritten in independent form, and new claims 38-42 have been added. The new claims parallel the previously pending claims except that they recite the presence of a mixture of ω -omega fatty acids. These new claims are supported in the specification at page 6, lines 19-26.

No new matter has been added.

Rejections under 35 U.S.C. § 112, first paragraph

The Examiner has rejected the claims under 35 U.S.C. § 112, first paragraph, as allegedly not being adequately described in the specification. Applicant traverses. As is known to the Examiner, it is not necessary to have working examples in order to meet the written description requirements. The specification (and original claim 1) explicitly recites that the active agent can be “a ω -3 fatty acid,” which is sufficient to support the language of amended claim 1. Claim 35 is explicitly supported by original claim 15.

With respect to claims 25-26 and the other claims which recite specific weight ratios, the specification and original claims (as quoted above) make clear that ω -3 fatty acids may be substituted for any number of other ‘active agents.’ Thus, the disclosure of in Example 2 of a ratio of orange oil or essential oil to polysorbates is sufficient to support a concentrate consisting of an ω -3 fatty acid and a polysorbates, the ratio of ω -3 fatty acid to polysorbate is no greater than 3:7 by weight.

In view of the foregoing, Applicant respectfully submits that the claims are adequately described within the meaning of 35 U.S.C. § 112, first paragraph, and request withdrawal of the rejections.

Conclusion

Applicant respectfully submits that the application is condition for allowance, and prompt notice to that effect is earnestly solicited. Should any questions arise, the Examiner is invited to call the undersigned representative.

Respectfully submitted,

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